Supreme Court, U.S.
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No.

In The

Supreme Court of the United States

October Term, 1997

THIRL CHAVIS,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

THIRL CHAVIS, PRO SE
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10 PP

QUESTIONS PRESENTED

I.

WHEN THE LANGUAGE IS CONCLUSIVE IN A CONGRESSIONAL STATUTE, IS IT WITHIN THE AUTHORITY OF A FEDERAL COURT TO ALTER, AND/OR REFUSE TO ADHERE TO THE LANGUAGE SET FORTH BY CONGRESS WITHOUT THE EXPRESSED AUTHORITY AND/OR CONSENT OF CONGRESS MOREOVER, SINCE ACTIONS AND CONCLUSIONS REACHED BELOW ARE IN DIRECT CONFLICT WITH THE LANGUAGE SET FORTH IN AN ENACTED STATUTE.

II.

IS IT PERMISSIBLE FOR A COURT OF APPEALS TO TAKE CERTAIN ASSERTIONS AS PROVEN FACTS WHICH WERE DERIVED FROM OR THE END RESULT OF QUESTIONABLE OR CONTESTED FACTS MOREOVER, SINCE THE CASE FILES AND RECORD DEMONSTRATE THE DISPUTED FACTS CRUCIAL TO THE OUTCOME WHICH INCLUDES GENUINE ISSUES OF FACT IN DISPUTE ALONG WITH QUESTIONS OF LAW WHICH IN ALL THINGS REQUIRED A HEARING?

III.

MAY A COURT OF APPEALS MANIFESTLY MAKE FINDINGS AGAINST THE WEIGHT OF THE EVIDENCE MOREOVER, MAKE A CONCLUSION CONTRARY TO AN ENACTED STATUTE BY CONGRESS WITHOUT THE EXPRESSED PERMISSION OR CONSENT OF CONGRESS AND ALSO CONTRARY TO DECISIONS SET FORTH BY THIS COURT WHICH IS FURTHER INDICATIVE OF A CLEAR MANIFEST OF INJUSTICE ON THE RIGHTS

OFFERED PETITIONER BY THE CONSTITUTION OF THE UNITED STATES?

IV.

DID THE SEVENTH CIRCUIT ERR WHEN IT WAVERED FROM ITS LONG ESTABLISHED POLICY RELATIVE TO SPECIFIC REASONING ON RULINGS FOR THE PURPOSE OF APPELLATE REVIEW THEREFORE OFFENDING PETITIONER'S DUE PROCESS?

V.

DID THE SEVENTH CIRCUIT ERR BASING ITS CONCLUSION THAT PETITIONER HAD NOT MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT MOREOVER, SINCE ITS CONCLUSION WAS BASED ON QUESTIONABLE OR CONTESTED FACTS OF MATERIAL VALUE IN DISPUTE?

PARTIES TO THE PROCEEDINGS BELOW

The only parties to the proceedings in the United States Court of Appeals for the Seventh Circuit were the United States of America and Petitioner Thirl Chavis.

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I.

OPINION AND JUDGMENT BELOW

The opinion below is unpublished. A copy is included in the Appendix hereto as App. 1

II.

JURISDICTION

This Court has jurisdiction to entertain Petitioner's Petition for a Writ of Certiorari pursuant to 28 U.S.C. § 1254(1).

The United States Court of Appeals for the Seventh Circuit entered its final judgment July 30, 1998. This Petition is being filed with the Court timely of the entry of Seventh Circuit's final judgment.

III.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

* * *

Statutory Construction. Interpretation of a federal statute by courts of appeal and the Supreme Court has long been established that the review is de novo. In various cases in the past, the Supreme Court has stated in part that its inquiry relative to interpretation of a federal statute begins with the language of the statute, which must ordinarily be regarded as conclusive and, that the strong presumption that the plain language of the statute expresses congressional intent is rebutted only in rare and exceptional circumstances, when a contrary legislative intent is clearly expressed. The Supreme Court went on and stated that in the absence of that rare and exceptional circumstance, we are to take Congress at its word. In the course of its decision, the Supreme Court wrote, Courts cannot with ease presume ratification of that which Congress forbids. **18 U.S.C. § 201(c)(2)** could not be more clear. It says:
Whoever...directly or indirectly, gives, offers or promises anything of value to

any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court...authorized by the laws of the United States to hear evidence or take testimony... shall be fined under this title or imprisoned for not more than two years, or both. The class of persons who can violate the statute is not limited. Whoever completes the following elements commits a crime. 18 U.S.C. § 201(c)(2). First, the statute requires a gift, offer, or promise, either direct or indirect, to a person. Second, the gift, offer, or promise must be of value. Third, the gift, offer or promise must be made for or because of the person's sworn testimony at a trial or other proceeding before an authorized court. The state of mind required to violate the statute is knowledge that the thing of value is given for or because of testimony. Even if § 201 (c)(2) could be said to deprive the sovereign of an established prerogative, two further exceptions remove § 201 (c)(2) from this class status. First, the presumption that the excluded unless named does not apply where the operation of law is upon the agents or servants of the government rather than on the sovereign itself. Id. The Supreme Court held in one of its decisions that, § 201 (c)(2) does not restrict any interest of the sovereign itself; it operates only upon an agent of the sovereign limiting the way in which that agent carries out the government's interest. There is no presumption that regulatory and disciplinary measures do not extend to such officers. Taken at face value the

language the purpose of Congress to govern conduct of its own officers and employees as well as that of others. Second exception provides that the government is subject to a statute, even if it infringes upon a recognized government prerogative, if the statute's purpose is to prevent fraud, injury, or wrong. The antigratuity provision of § 201 (c)(2) indicates Congress's belief that justice is undermined by giving, or promising anything of value for testimony. If justice perverted when a criminal defendant seeks to buy testimony from a witness, it is no less perverted when the government does so. Because § 201 (c)(2) addresses what Congress perceived to be a wrong, and operates to prevent a fraud upon the federal courts in the form of inherently unreliable testimony, the proscription of § 201 (c)(2) must apply to the government. Further, the interests of the government as sovereign militate in favor of applying § 201 (c)(2) against federal prosecutors. The interest are in the enforcement of its laws and the just administration of its judicial system applying § 201 (c)(2) to all parties in the judicial system advances both interest. The policy expressed in § 201 § (c)(2) has long been enforced at common law. The policy is weighty enough that contracts to pay fact witnesses are void as violative of public policy.

* * *

Perjury Generally. Whoever - (1) having taken an oath before a competent tribunal, officer or person, in any case in which a law of the United States authorizes an

oath to be administered, that he will testify, declare, depose or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of Title 28 U.S.C. willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury. (This section is applicable whether the statement or subscription is made within or without the United States). **Fed R.Crim.P.Ann. § 1621**.

* * *

Misrepresentation Generally. An untrue statement of fact. That which, if accepted leads the mind to an apprehension of a condition other and different from that which exists. Colloquially it is understood to mean a statement made to deceive or mislead. **Black's Law Dictionary - Fifth Edition**.

* * *

de novo review. District court's dismissal of a federal prisoner's habeas corpus petition is reviewed de novo. **28 U.S.C. § 2255**.

* * *

Due Process. No person shall be deprived of life, liberty, or property without due process of law. **Constitution of the United States of America, Amendment V**.

* * *

Findings and Conclusions. Findings of fact and conclusions of law are **"indispensable to appellate review"**. **28 U.S.C. § 2255.** A rather terse statement will not suffice. **Id.**

* * *

AMENDMENT VI - INEFFECTIVE ASSISTANCE

To establish or demonstrate ineffective assistance of counsel, habeas corpus Petitioner would have to show that counsel's performance was "deficient" and "that deficient performance prejudiced defense". **Constitution of the United States of America, Amendment VI.**

* * *

Determining The Incorporation of The Jencks Act

After a witness other than the defendant has testified on direct examination, the court on motion of a party who did not call the witness, shall order the attorney for the government or the defense and the defendant's attorney...to produce for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter concerning which the witness has testified. **Fed.R.Crim.P. Rule 26.2 (a); Fed.R.Crim.P. Rule 26.2(f)(3)** expressly defines the "Statement" of a witness to include a statement made by a witness to a grand jury. **18 U.S.C. § 3500(e)(3)** "entitles a defendant to the grand jury testimony of a government trial witness without any preliminary inspection for

usefulness" by trial judge. **2 Charles A. Wright and Arthur R. Miller, Fed.Practice and Procedure § 436-38(1982 & Supp. 1995).**

* * *

BRADY V. MARYLAND UNDER AMENDMENT V - DUE PROCESS

The meaning of materiality is that a reviewing court must focus on the fairness of the trial the defendant actually received rather than on whether a different result would have occured had the undisclosed evidence been revealed. **Constitution of the United States of America, Amendment V.**

IV.

STATEMENT OF THE CASE[1]

Pursuant to a four(4) count Superseding Indictment which was returned in the United States District Court for the Southern District of Indiana, Indianapolis Division on March 24, 1993, and in further -ance of Petitioner Thirl Chavis's plea of

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[1] The jurisdiction of the court below was invoked pursuant to 28 U.S.C. § 1291.

not guilty, Petitioner went to trial by jury to the charges alleged in the Indictment which were some 47 months from the date the alleged offenses occured and the date of the Indictment. The jury found Petitioner guilty on all four counts in the Indictment. Relative to Petitioner's conviction, Petitioner's counsel did the the following: **(1)** filed a timely notice of appeal; **(2)** filed a motion to dismiss appeal pursuant to his advice to Petitioner to file a § 2255. The facts on Petitioner's § 2255 are set forth in the order of the U.S. Court of Appeals for the Seventh Circuit dated September 17, 1997. **App. 10.** It is also stated in the lower court's order that Petitioner was under the district court's invitation to reinstate or commence a new action pursuant to § 2255, when Petitioner had satisfactorily

completed his investigation. In furtherance of the district court's order for the refiling or filing a new cause of action, **App. 10** Petitioner filed his § 2255. The district court denied it and Petitioner; **(1)** filed notice of appeal, **Id.** **(2)** court below remanded for further proceedings, **Id.** **(3)** district court ordered government to file an answer, **App. 34, (4)** government responded, Petitioner replied and district court denied with prejudice. **App. 30-33.** **(5)** Petitioner filed for Certificate of Appealability ("COA") **App. 25-29, (6)** district court denied. **App. 23-24.** Petitioner pled in the alternative, district clerk submitted the record to the court below **App. 20-22, (7)** Petitioner filed his docketing statement **App. 13-18, (8)** court below ordered appellee to file jurisdictional Memorandum **App. 12,** Appellee com-

plied **App. 6-9,** Petitioner responded **App. 2-5,** the court below in its rather terse statement denied Petitioner. **App. 1.**

REASONS FOR GRANTING THE WRIT

This case exemplifies **direct conflict to that of statute law as well as to previous decisions made by this Court relat- to the statutes set forth herein below.**

Facts Pertinent To The 18 U.S.C. § 201(c) (2) Issue:

In view of the fact Petitioner pled not guilty to the four counts in the indictment **App. 45, 46,** the evidence comprised during trial clearly demonstrates, there are several problems here of Constitutional magnitude which could have been in all things cured had the court below **(1)** reviewed the case at bar de novo as required **(2)** referenced the documents, papers and record in the case at bar. The clear

problems which exists are, but not limited to:

1. Pursuant to Petitioner's request for the court below to review the record de novo in furtherance of Petitioner's COA appeal, the record is devoid of such review undertaken by the court below. Had a de novo review been made, the following would have been found by the court below;

2. Relative to promises in consideration of anything of value in exchange for witness's sworn testimony, government agents, i.e. U.S. Attorneys and/or their assistants are governed by **18 U.S.C. § 201 (c)(2).** Further **§ 201 (c)(2) prohibits and condemns promises made pursuant to consideration of anything of value in exchange for witness's sworn testimony.**

3. Petitioner argued vigorously the leniency promised and granted to the

government witnesses in exchange for their sworn testimony, as stated above is in all things prohibited by 18 U.S.C. § 201(c)(2) which violated Petitioner's due process to a fair trial. In its wisdom, this Court established and set forth the following;

> **Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, omnipresent teacher. For good or for ill, it teaches the whole people by its example Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means--to declare that the government may commit crimes in order to secure the conviction of a private criminal--would bring terrible retribution. Agents that pernicious doctrine this Court should resolutely set its face. 277 U.S. 438, 485 (1928).**

Some 50 years later the Court stated:

> **This venerable principal will not give way to the expediency of the govern-**

ment's present practices without legislative authorization. 457 U.S. 332, 352 (1982).

4. The evidence in the case at bar is overwhelming in furtherance of prohibition and condemnation of promises made pursuant to anything of value in exchange for witness's sworn testimony moreover, the plea agreement and the complete understanding therein in regards to the witness procuring the valuable cut in sentence in exchange for her sworn testimony. Considering federal government agent Tom Casey's pick and choose prosecution between the state of Indiana and federal, Casey demonstrated while on the stand in the case at bar how his promises and payment in exchange for the government witness's testimony clearly was something of value **[App. 59];[Vol.I Trial Transcript page 28, lines 15-17]; [Vol. I Trial Transcript page 29, lines 1-**

5]. Government agent Casey's inducement for government witness Siakotos to testify is clearly exhibited in **Vol. I Trial Transcript page 70, lines 13-25; Vol. I Trial Transcript page 71, lines 1-3.** Further, the two crucial events which occurred in the course of the improprieties on the part of the prosecutor and agent Casey which were not addressed by the lower court which was caused by the failure to review the case at bar de novo or reference the record were: **(1)** allegations set forth in the Indictment were in or around April, 1989 to July, 1989. **(2)** government witness Siakotos testified she was not sentenced until early 1991 and her sentence was only six years pursuant to the plea agreement herein discussed. It is in all things clear that, Agent Casey took 2 years to muster the offer and promise to

government witness Siakotos in exchange for her false sworn testimony which in all things Petitioner pointed out in detail in the district court but, instead of referencing the record or reviewing the case at bar de novo as required, the court below merely rendered its rather terse statement. In furtherance of the above, the Fifth Circuit in its wisdom stated in part: "We think it obvious that promise of immunity or leniency premised on cooperation in a particular case may provide a strong inducement to falsify in that case." 719 F.2d 1253-57 (5th Cir. 1983). The case at bar is classic that was found in the Fifth Circuit's wisdom of some 15 years ago. In the case at bar, two factors demonstrate how Petitioner's conviction was obtained illegally. (1) When Special Agent Casey went to the place of confinement of government witness Siakotos and promised her

leniency in her State sentence in exchange for her sworn testimony in the case at bar. Even though it was some forty seven (47) months subsequent to the alleged offenses, and the fact it took S/A Casey that long to reach the agreement with Siakotos that involved the promise of leniency and, for Siakotos to trust such arrangement. Further, Siakotos had to join forces with S/A Casey for the fabrication of her testimony. (2) The record speaks out loudly on the perjured testimony that Siakotos proffered in court. The record demonstrates how Petitioner's conviction was obtained illegally moreover, in direct conflict with statutory law. 18 U.S.C. section 201 (c)(2). This Court at various times has in all things emphasised, ''The intention of Congress and the language in a Statute'' ''must ordinarily be regarded as conclusive. 447 U.S. 102, 108. Further,

as this Court previously concluded, ''we are bound to take Congress at its word.'' 118 S.Ct. 838, 841. Facts pertinent to 18 U.S.C. sections 201 (c)(2); and 1621 which Circuits have quoted that has long been the standing of this Court which it states in part: The class of persons who can violate the statute is not limited. ''Whoever completes the following elements commits a crime. 18 U.S.C. section 201 (c)(2). First, the statute requires a gift, offer, or promise, either direct or indirect, to a person, See id. Second, the gift, offer or promise must be 'of value'.'' Id. Third, the gift, offer, or promise must be made 'for' or 'because of' the person's sworn testimony at a trial or other proceeding before an authorized court. Id. The state of mind required to violate the statute is knowledge that the thing of value is

agents or servants of the government rather than on the sovereign itself.'' See Nardone v. United States, 302 U.S. 379, 383 (1937) at 383; United States v. Arizona, 295 U.S. 174, 184 (1935); Dollar Sav. Bank v. United States, 86 U.S. (19 Wall.) 227, 239 (1873). Taken at face value, the language indicates the purpose of Congress to govern conduct ofits own officers and employees as well as that of others. Arizona, 295 U.S. at 184 (holding the Secretary of the Interior was clearly subject to a law prohibiting ''any person'' from constructing a dam on navigable waterways without the consent of Congress). The entire language of 18 U.S.C. section 201 (c)(2)is in totality silent on the issue that Congress permitted any agent(s) of the sovereign namely any prosecutor to violate and/or to be in direct conflict with the language in section 201 (c)(2) therefore the above stated actions on the part of S/A Casey and the prosecutor violated section 201 (c)(2) moreover with the perjured testimony which was proffered by the government's chief witness during

and evidenced in the record hereto. Petitioner argues that, since the court below did not have the expressed authority or consent of Congress to do so, it could not alter any portion of the conclusive language in 18 U.S.C. section 201 (c)(2). The failure on the part of the court below to adhere to the said statute demonstrates the violation of the same statute. In furtherance of the above stated conflict and violation, the record decisively demonstrates the exact prognostication of the Fifth Circuit some fifteen years ago when it stated in part: "We think obvious that promises of immunity or leniency premised on cooperation in a particular case may provide a strong inducement to falsify in that case." 719 F.2d 1253-57 (5th Cir. 1983). In view of the decision made below and Petitioner's section 2255 was in fact

filed in accordance to the district court and its order as stated herein which was not addressed or interpreted by the court below which in essence deprived Petitioner of his due process pursuant to the actions or non-actions by the court below moreover, had the court below reviewed the record de novo as required, the miscarriage of justice which occurred in connection with the above stated conflicts would have been corrected in the normal course of a de novo review by the court below. Further, the court below would have found that, the district court's ambiguous orders App.31 and App.23 dealt with the AEDPA and in totality refused to address its own invitation to Petitioner which was a clear on going case, exempt from the AEDPA. The court below merely paraphrased the district court's final order App. 1,

which certainly appears to further the miscarriage of justice.

POINT I

In the case at bar, since the district court denied the certificate of appealability ("COA"), the notice of appeal constituted a request to have all of the issues reviewed by a judge of the court of appeals. Fed.R.App.P. Rule 22(b). In re Certificate of Appealability, 106 F.3d 1306 at 1307. Further, there seems not to be a conflict between the Seventh Circuit and the Fifth Circuit relieve to state findings and conclusions for 28 U.S.C. section 2255 for the reason that findings and conclusions "are plainly indispensable to appellate review." Hart v. United States, 565 F.2d 360, 362 yet, in the case at bar, the Seventh Circuit failed to adhere to its long standing as stated in the Hart case above cited. Since the order of

the court below App. 1 indicates the court failed to review the case at bar de novo the court below failed to address the district court's invitation for Petitioner to refile as previously stated herein therefore violating Petitioner's Due Process under the Constitution of the United States to equal protection of the law. Fifth Amendment. Further, in the process of the failure to review the case at bar de novo, by the court below, Petitioner argues that, the hard evidence he attached to his pleadings in the court below App. 59, 60, 64, 65, 66, 67, relative to the direct conflict with statute 18 U.S.C. section 201 (c)(2) by the above stated government agents which required a hearing was in furtherance of the miscarriage of justice herein stated and evidenced for the reason that it has been consistently noted that section 201

is to be broadly construed to further its legislative purpose of deterring corruption. See United States v. Hernandez, 731 F.2d 1147, 1149 (5th Cir. 1984); United States v. Evans, 572 F.2d 455, 480 (5th Cir.), cert. denied 439 U.S. 870 (1978).

This court should in the interest of justice to correct the miscarriage of justice suffered by Petitioner the decisions this court has rendered in the past. The Arizona court 295 U.S. @ 184, the Nardone court 302 U.S. @ 384, the Herron court 87 U.S. (20 Wall.) at 255-56 all of which have yet to be overturned relied on the principal to hold that federal agents were covered by the statutory term "anyone" in the 1934 federal wiretap statute. 302 U.S. @ 382-84. This holding still stands obviously since the holding has never been overturned and the conclusive

Congressional language has not been altered by Congress since its enactment therefore, the language in 18 U.S.C. section 201(c)(2) should apply to the case at bar. Further, since it has been uniformly rejected that "anything of value should be restricted to things of monetary commercial,objective, actual, or tangible value" interpretation is based upon a recognition that monetary worth in not the sole measure of value. Marmoljo, 89 F.3d 1185, 1191 (5th Cir. 1996); Williams, 705 F.2d @ 622-23; Girad, 601 F.2d @ 71; Russello, 464 U.S. 16, 21 (1983). The promised and procured leniency of sentence herein stated should in all things be broadly construed in accordance to section 201 in order to carry out its Congressional purpose. Williams @ 603. The leniency stated herein is clearly "thing of value" See

Nilsen, 967 F.2d 539, 542-43 (11th Cir. 1992) cert. denied, Schwartz, 785 F.2d 679-81 (9th Cir.) cert. denied, Pacheco, 826 F.2d 826 F.2d @ 315 (5th Cir. 1985); Kimble, 719 F.2d @ 1255-57 (5th Cir. 1983); Picquet, 963 F.2d 54, 55 (5th Cir. 1992).

The Picquet court agreed with circuits which held that the test of value is whether the recipient subjectively attaches value to the thing received. Id. @ 55. In the case at bar the thing of value was leniency of many years off of a sentence. The court below obviously is also in conflict with the circuits that held the test of value as stated above. Rulings on a promise, false testimony, threat to a witness's truthfulness are those of the Fifth Circuit noting that certiorari was denied. Pacheco, 826 F.2d @ 315; Kimble, 719 F.2d @ 1255-57. It should be concluded that the government

witness herein referenced had a strong inducement to falsify her testimony during trial in this case.

POINT II.

In reference to the district court's order App. 10-11, did the court below err when it made its findings and conclusion. The above stated district court order App. 10-11 demonstrates the ongoing litigation which could not be confused by the AEDPA's time limitations. Further, the failure on the court below to a de novo review of the record in the case at bar omitted the finding that, Petitioner's pleadings were pursuant to authority set forth by this Court moreover, (a) Ineffective assistance of counsel; (b) Jencks Act; (c) Brady Rule. In futherance of the above, Congress in H.R. Rep. No. 87-748, at 16 (1961), set forth the conclusive language that "Anything of value by 'witness' 'for' or

'because of'... testimony'' should also be prohibited.'' The committee report also indicates Congress's policy: ''The conduct which is forbidden has the appearance of evil and the capacity of serving as a cover for evil. Id. at 19. This Court for more than 60 years has expressed instructive words: ''No rule of construction...requires that a penal statute be strained and distorted in order to exclude conduct clearly intented to be within its scope.'' This Court has further expressed that in essence a matter which tends to alter the intent or conclusive language of Congress is one of policy for Congress to decide. Dixon v. United States, 465 U.S. 482, 496 (1984); See Salinas v. United States, 118 S.Ct. 469, 475 (1997)(citing United States v. Raynor, 302 U.S. 540, 552 (1938)); See Nardone, 302 U.S. at 383.

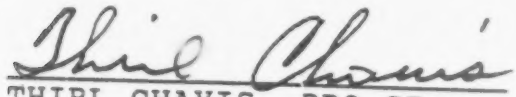
Over two decades ago the court below stated its position in conflict to 18 U.S.C. section 201 (c)(2) when it stated in part: "if the government can excuse criminal or civil liability in setting a criminal case, surely it can use that power of compromise to obtain a guilty plea ot to procure testimony in other proceedings." United States v. Barrett, 505 F.2d 1091 (7th Cir. 1974). In essence the court below in its conclusion above stated tends to imply repeal and/or amendment to section 201 (c)(2) which is clearly disfavored by this Court. See e.g. United States v. Estate of Romani, 118 S.Ct. 1478, 1486 (1998); 1A Norman J. Singer, Sutherland Statutory Construction section 22.13 (5th ed. 1992)("Amendments by implication, like repeals by implication, are not favored and will not be upheld in doubtful cases...") Id. at section 23.09. The majority of the

section 23.09. The majority of the circuits are in conflict with the court below and its above stated conclusion. Other circuits restrict federal prosecutors to adhere to statute law. Ryan, 903 F.2d 739-40 (10th Cir.); McDonnell Douglas Corp. 132 F.2d 1257 (8th Cir. 1998); Lopez, 4 F.3d 1458-63 (9th Cir. 1993); Matter of Doe, 801 F. Supp. 484-87 (D.N.M. 1992). The case at bar is a classic miscarriage of justice pursuant to the total disregard for statutory law as stated herein.

CONCLUSION

For the foregoing reasons, Petitioner Thirl Chavis repectfully requests that the Court issue a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit.

Respectfully submitted,



THIRL CHAVIS, PRO SE
Reg. No. 99019-012
FPC-Nellis CS 4500
North Las Vegas, NV 89036-4500

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been caused to be served upon the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W. Washington, DC 20530-0001 by depositing the same on this 30th day of January, 1999, in the U.S. Mail First-Class Delivery postage prepaid.

THIRL CHAVIS, PRO SE

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